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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1997

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# ENROLLED

SENATE BILL NO. 121

(By Senator OLIVETTO, ET AL)

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PASSED MARCH 24, 1997

In Effect NINETY DAYS FROM Passage

**ENROLLED**

**Senate Bill No. 121**

(BY SENATORS OLIVERIO, PREZIOSO, MCKENZIE, SNYDER,  
SCOTT, ROSS, ANDERSON, DEEM, BUCKALEW,  
SHARPE, BALL AND DUGAN)

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[Passed March 24, 1997; in effect ninety days from passage.]

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AN ACT to amend and reenact sections seven, nine, eleven and thirteen, article two, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to allowing all subcontractors and those providing labor or materials to contractors or subcontractors seventy-five days within which to claim their mechanics' liens.

*Be it enacted by the Legislature of West Virginia:*

That sections seven, nine, eleven and thirteen, article two, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:



13 ..... who was and is general contractor for  
 14 the furnishing of materials and doing of the work and  
 15 labor, necessary to the completion of (here describe the  
 16 nature of the subcontract) on that certain building (or  
 17 other structure or improvement as the case may be),  
 18 owned by you and situate on lot number ..... of block  
 19 number ..... as shown on the official map of  
 20 ..... (or other definite and ascertainable de-  
 21 scription of the real estate) and that the contract price and  
 22 value of said work and materials is \$. .... You are  
 23 further notified that the undersigned has not been paid  
 24 therefor (or has been paid only \$. .... thereof) and that  
 25 he claims and will claim a lien upon your interest in the  
 26 said lot (or tract) of land and upon the buildings, struc-  
 27 tures and improvements thereon to secure the payment of  
 28 the said sum.

29 .....

30 State of West Virginia,

31 County of ....., being first  
 32 duly sworn, upon his oath says that the statements in the  
 33 foregoing notice of mechanic's lien are true, as he verily  
 34 believes.

35 Taken, subscribed and sworn to before me this .....  
 36 day of ....., 19....

37 My commission expires .....

38 .....

39 (Official Capacity)

40 But the lien shall be discharged and avoided, unless  
 41 within ninety days after the completion of his or her  
 42 subcontract as aforesaid the subcontractor shall cause to  
 43 be recorded in the office of the clerk of the county com-  
 44 mission of the county wherein the property is situate a  
 45 notice of the lien, which notice shall be sufficient if in  
 46 form and effect as that provided in section eight of this  
 47 article.

**§38-2-11. Notice and recordation of lien for supplies furnished  
 to contractor or subcontractor.**

1 For the purpose of perfecting and preserving his or her  
 2 lien, every materialman or furnisher of machinery or other  
 3 necessary equipment, who shall have furnished material,  
 4 machinery or equipment under a contract with any  
 5 contractor or with any subcontractor, as set forth in  
 6 section four of this article, within seventy-five days after  
 7 he or she shall have ceased to furnish such material or  
 8 machinery or other equipment, shall give to the owner, or  
 9 his or her authorized agent, by any of the methods pro-  
 10 vided by law for the service of a legal notice or summons,  
 11 a notice of such lien, which notice shall be sufficient in  
 12 form and effect as follows:

13 Notice of Mechanic's Lien.

14 To.....

15 You will please take notice that the undersigned  
 16 ..... has furnished and delivered to  
 17 ..... who was contractor with you (or  
 18 subcontractor with ....., who was contractor  
 19 with you, as the case may be) for use in the erection and  
 20 construction (or repair, removal, improvement, as the case  
 21 may be) of (here list the buildings or other structure or  
 22 improvement to be charged) on the real estate known as  
 23 (here insert an adequate and ascertainable description of  
 24 the real estate to be charged) and the said materials were  
 25 of the nature and were furnished on the dates and in the  
 26 quantities and at the price as shown in the following  
 27 account thereof:

28 (Here insert itemized account.)

29 You are further notified that the undersigned has not  
 30 been paid the sum of \$ . . . . (or that there is still due and  
 31 owing to the undersigned thereon the sum of \$ . . . . .)  
 32 and that he claims a lien upon your interest in the said lot  
 33 (or tract) of land and upon the said buildings, structures  
 34 and improvements thereon, to secure the payment of the  
 35 said sum.

36 .....

37 State of West Virginia,

38 County of . . . . ., being first duly sworn,  
39 upon his oath says that the statements in the foregoing  
40 notice of lien contained are true, as he verily believes.

41 Taken, subscribed and sworn to before me this . . . . .  
42 day of . . . . ., 19. . . . .

43 My commission expires . . . . .  
44 . . . . .

(Official Capacity)

46 But the lien shall be discharged and avoided, unless,  
47 within ninety days after such materialman or other  
48 furnisher of machinery or other necessary equipment shall  
49 have ceased to furnish such materials or machinery or  
50 other equipment, he or she shall cause to be recorded in  
51 the office of the clerk of the county commission of the  
52 county wherein such property is situate a notice of such  
53 lien, which notice shall be sufficient if in form and effect  
54 as that provided in section eight of this article, and which  
55 recorded notice need not include such itemized account.

**§38-2-13. Notice and recordation of lien of mechanic or laborer working for contractor or subcontractor.**

1 For the purpose of perfecting and preserving his or her  
2 lien, every workman, artisan, mechanic, laborer or other  
3 person who shall have performed any work or labor upon  
4 the building or improvement thereto, under a contract  
5 with any general contractor or with any subcontractor, as  
6 set forth in section six of this article, shall cause to be  
7 given to the owner, or his or her authorized agent, by any  
8 of the methods provided by law for the service of a legal  
9 notice or summons, within seventy-five days after he or  
10 she shall have ceased to perform any such work or labor,  
11 a notice of the lien, which notice shall be sufficient, if in  
12 form and effect as follows:

Notice of Mechanic's Lien.

14 To . . . . .

15 You will please take notice that the undersigned has  
16 performed work and labor under a contract with

17 ..... who was general contractor with you (or  
 18 who was subcontractor with ....., who was  
 19 general contractor with you) in the erection and construc-  
 20 tion (or removal, repair, improvement or otherwise, as the  
 21 case may be) of a certain building (or other structure or  
 22 improvement) on real estate known as (here insert an  
 23 adequate and ascertainable description of the real estate  
 24 to be charged) and that the work and labor was of the  
 25 kind, was performed on the dates, for the purposes and at  
 26 the prices, as shown in the following itemized account  
 27 thereof:

28 (Here insert itemized account.)

29 You are further notified that the undersigned has not  
 30 been paid the sum of \$. . . . . (or that there is still due and  
 31 owing to the undersigned thereon the sum of \$ . . . . . ) and  
 32 that he claims a lien upon your interest in the said lot (or  
 33 tract) of land and upon the buildings, structures and  
 34 improvements thereon to secure the payment of the sum.

35 .....

36 State of West Virginia,

37 County of ....., being first duly  
 38 sworn, upon his oath says that the statements in the  
 39 foregoing notice of mechanic's lien contained are true, as  
 40 he verily believes.

41 Taken, subscribed and sworn to before me this  
 42 ..... day of ....., 19.....

43 My commission expires .....

44 .....

45 (Official Capacity)

46 But the lien shall be discharged, unless such workman,  
 47 artisan, mechanic, laborer or other person shall cause to  
 48 be recorded in the office of the clerk of the county com-  
 49 mission wherein such property is situate, within ninety  
 50 days after he or she shall have ceased to do work or  
 51 perform labor upon the building or improvement thereto,  
 52 a notice of the lien, which notice shall be sufficient if in

53 form and effect as that provided in section eight of this  
54 article and which recorded notice need not include such  
55 itemized account.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Kandy Schoonover*  
.....  
Chairman Senate Committee

*Nick Frantosa*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*Carroll B. Bland*  
.....  
Clerk of the Senate

*Bugoy W. Bunt*  
.....  
Clerk of the House of Delegates

*Carl Ray Tomblin*  
.....  
President of the Senate

*[Signature]*  
.....  
Speaker House of Delegates

The within *is approved* this the *27<sup>th</sup>* day of *March*, 1997.

*[Signature]*  
.....  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/27/97

Time 3:18pm